

**Testimony before the Little Hoover Commission  
State Capitol – Room 112  
Public Hearing  
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**Education Governance**

**Presented by Thomas E. Henry, CEO of the Fiscal Crisis and Management Assistance Team (FCMAT)**

I appreciate the opportunity to testify before the Little Hoover Commission as it explores how the governance system impacts the quality of education and how governance reforms might improve educational outcomes for California's K-12 students. My testimony will focus on the Commission's four stated issues from a fiscal perspective. FCMAT has been assigned into approximately 50 districts in fiscal crisis and has completed approximately 450 local educational agency management assistance studies since we were founded in 1992. From this perspective, we have gained a unique understanding of how the local governance structure impacts the fiscal effectiveness of California's school districts.

**1. In what ways does the present system function well and in what ways does it function poorly?**

From a fiscal perspective, the system has worked remarkably well since the passage of AB 1200 and most recently AB 2756. These two pieces of legislation provided much needed fiscal oversight and authority at the local and intermediate level (county superintendent of schools). The added authority and responsibility provided to the school districts and the county superintendents of schools, have created a more efficient and effective structure. This is evidenced by a limited number of emergency loan districts, fewer disapproved budgets and negative interim report certifications over a ten-year period. The following specific elements have been well documented and observed by FCMAT as reforms that worked well at the local and county level.

- AB 1200 (Chapter 1213, Statutes 1991) provides clear state criteria and standards by which the local educational agency develops and monitors its fiscal matters.
- AB 1200 created the County Office Fiscal Crisis and Management Assistance Team (FCMAT) to provide management assistance through invitation or fiscal crisis intervention through assignment. Ninety percent of FCMAT's work is by invitation and ten percent is through assignment. The ability of the local school district and county superintendent to invite FCMAT into a local educational agency for preventative/proactive work has been very beneficial and cost effective.

- AB 1200 provides a progressive structure that empowers the county superintendent to engage early and often relative to the fiscal health of local school districts.
- Depending on the level of fiscal health, AB 1200 provides the authority for the county superintendent to progress from providing preventative/proactive management assistance to the more serious intervention stage of having fiscal authority over the local elected board of trustees.
- AB 1200 provides an appropriation to FCMAT for professional development at the governance and staff level. This appropriation has allowed FCMAT to empower and equip local boards and staff with effective and efficient training.
- AB 2756 (Chapter 52, Statutes of 2004) provides substantive changes to the financial accountability and oversight process. This bill essentially was a reaction of the State Legislature to recent emergency loan districts.
- AB 2756 goes beyond AB 1200 by providing needed clarity and added responsibility to the county superintendent of schools in his/her role as the fiscal oversight agency.
- From a local perspective, AB 2756 requires that the district superintendent and chief business official certify in writing that the costs incurred by the school district under a collective bargaining agreement can be met by the district during the term of the agreement (a maximum of three years). From a governance perspective, this certification makes it more difficult for a school board to approve an agreement that the district cannot realistically fund.
- AB 2756 requires a school district that has a qualified or negative interim report certification to allow the county superintendent of schools at least 10 working days to review and comment on any proposed bargaining agreement prior to its ratification by the local school board. The county superintendent of schools must notify the school district, the county board of education, the district superintendent, the governing board of the school district, and each parent and teacher organization of the district within those 10 days if, in his or her opinion, the agreement would endanger the fiscal well-being of the school district.
- AB 2756 provides that the appointment of a State Administrator to a district that receives an emergency loan from the Legislature does not remove any statutory rights, duties, or obligations from the county superintendent of schools.

From a fiscal perspective, the current system of oversight continues to labor in a number of areas. The oversight system worked remarkably well for the first 10 years. However, the current challenges have now overloaded a growing number of districts. There is clear evidence that certain governance issues continue to impact the fiscal well-being of California's K-12 structure and students. The lack of clarity, training and authority relative to district fiscal oversight continue to create inefficient and ineffective decision making. This is evidenced by a recent increase in emergency loan districts, and a recent increase in negative interim fiscal certifications. Moreover, school districts in fiscal crisis experience increased difficulty in devoting adequate resources to the long-term maintenance of facilities. FCMAT has identified the following specific elements to fiscal oversight and accountability that still do not function smoothly.

- AB 1200 and AB 2756 suspend the legal rights, duties, and powers of the governing board of a school district that has received an emergency loan. The Superintendent of Public Instruction assumes these legal rights, duties and powers in the person of an administrator assigned to the district. However, these statutes do not remove the elected board members. The elected board continues to sit as an advisory body reporting to the state-appointed administrator. In practice, this presents problems because the governing board continues to hold public meetings and can undermine the authority and credibility of the state administrator. This structure has caused resentment and confusion among the students, staff, and educational community in some emergency loan districts. Recovery can be delayed and hampered when the advisory board and state-appointed administrator are at odds relative to the recovery plan. As an alternative, the Commission should consider recommending that when emergency loans are in place, the Superintendent of Public Instruction has the option to appoint an advisory body of students, staff, parents, community leaders, and higher education in lieu of the advisory board authorized under current statutes.
- AB 2756 requires a school district that has a qualified or negative certification to allow the county superintendent of schools at least 10 working days to review and comment prior to ratification of a collective bargaining agreement. However, in a district that is under a positive interim report certification, there is no requirement to submit budget revisions prior to ratification, even though these revisions may be necessary in order to fully fund the bargaining agreement. For example, funding pay raises within the estimated revenue stream may require reduction in staff or other expenditure savings. School districts with positive budget certifications must merely submit budget revisions within 45 days after adopting a collective bargaining agreement. This results in fiscal oversight review happening after the fact, when no outside agency (such as the county superintendent or the staff) is able to communicate the fiscal impact on the decision to ratify the bargaining agreement. It is too late for any meaningful or required intervention. In the case of the Oakland Unified School District's \$100 million emergency loan, the district submitted four consecutive positive interim report certifications just prior to the fiscal year in which it received the emergency loan. The district's 24.1% salary increase over a three-year period was ratified under a positive certification. Because of the positive certification, the district was not required to sunshine/disclose the agreement's fiscal impact until 45 days after it was ratified. From a fiscal oversight perspective, this provision does not allow for any meaningful comments from the county superintendent relative to the impact of the decision on the district's fiscal health. Local school boards are making long-term fiscal decisions without the benefit of an independent external review and county superintendents are commenting on the fiscal impact after the fact.

- Some elected board members have difficulty making prudent fiscal decisions due to a lack of training, limited information and insufficient consideration of the fiscal impact of current and future years obligations. Special interest groups often influence decision making at the governance level, making it very difficult for elected board to act independently.
- AB 1200 and AB 2756 assign fiscal oversight authority and responsibility to the constitutional position of the county superintendent. The county superintendent uses this authority and responsibility in providing services and intervention to the school districts within their county. Every county in the state has either an elected or appointed county board of education. The county boards have specific responsibilities as designated in the Education Code, including adoption of the budget of the county superintendent. The county board's responsibilities do not include fiscal oversight of the local educational agencies. It is important to emphasize, and clarify if necessary, that county boards cannot, through budgetary control, interfere with the county superintendent's authority and responsibility relative to fiscal oversight responsibilities.

**2. What dynamics made it difficult to reform those parts of the governance structure needing reform?**

- Many board decisions have long-range fiscal implications. These include salary and benefit levels and retirement benefits, particularly those that exceed the statutory minimum benefits provided through P.E.R.S. and S.T.R.S. Most often, boards are not held accountable for these long-range decisions and their full implications are not adequately considered and provided for in the budget adoption process. For example, while it is necessary for some districts (those under qualified or negative interim report certifications) to demonstrate that they can fully fund bargaining agreements for the maximum three-year term of the agreement, no requirement is imposed to show that districts will be able to fund bargaining provisions for the longer term. Many times, new board members or future board members are faced with the impact of fiscal decisions made by prior boards. Recent legislation has been enacted requiring a more thorough review, approval, and certification of certain fiscal decisions. It is too early to see how successful these new reforms will be and accountability for flawed decision making is still lacking.
- Long-range fiscal implications of the collective bargaining agreements, employee health benefits and retiree health benefits have lacked thorough analysis and consideration on the fiscal health of the district. Retirement provisions approved in bargaining agreements are arguably not subject to unilateral adjustment by school boards in the "out years" if a district can no longer afford them. Only recently have districts been compelled to recognize the long-term implications of health benefit costs for retirees under new requirements of the Government Accounting Standards Board (GASB). This duty to recognize liabilities is not the same as a duty to fully fund them with present dollars. However, districts that

have substantial unfunded liabilities will likely find that their credit ratings (for bonds and other borrowings) will be negatively impacted. These types of decisions need to be made locally; however, the dynamics and impact of special interest groups often make such decisions difficult or impossible.

**3. What areas of education governance should be strategic priorities for reform and what are the most promising reforms that should be explored?**

- School board members are not currently required to undergo any training to qualify them to handle the fiscal affairs of their districts. Training needs to be provided at a local level by persons who are not district employees.
- School board members need an independent and external assessment and analysis of all collective bargaining agreements in order to make informed decisions.
- In the case of some prior emergency loan districts, the advisory boards have made it more difficult for the appointed State Administrator to move the district to recovery.

**4. How could a study of education governance by the Little Hoover Commission help clarify which reforms should be pursued and serve as a catalyst to enable their implementation?**

The Little Hoover Commission is providing a forum for open and candid testimony on the subject of education governance. This forum should generate honest and clear thoughts on the subject. This process will help clarify and prioritize which reforms should be pursued. The Little Hoover Commission's great challenge will be in communicating to the state policy makers and state legislature the need for systemic changes. It will take great determination and courage to implement the needed reform changes.

My purpose in providing this testimony is to remind the Commission that a study of governance is more than a study of political power. From FCMAT's perspective, the continued viability of local school districts in California is tied to their ability to manage their fiscal affairs well, both in the immediate budget year and for the long term. For this reason, governance must include the agencies, structure and relationships that are part of our system of fiscal accountability.